IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 11TH APRIL 2007 / 21TH CHAITHRA 1929

MFA.No. 1113 of 2001(C)

OPMV.390/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA
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APPELLANT 3RD RESPONDENT:

THE OREINETAL INSURACNE CO. LTD.,
REPRESENTED BY ITS BRANCH
MANAGER, KOTHAMANGALAM.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS - PETITIONER & RESPONDENTS 1 & 2:
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1. **M. IBRAHIM, S/O. FACRUDEEN AHAMED, AGED 53 YEARS, MANAKKANDATHIL HOUSE, MURIKARSERY P.O.,**

2. **SIJU, S/O. GANGADHARAN, AGED 21 YEARS, AALITHARA HOUSE, ANNYARTHOLU KARA KARUNAPURAM VILLAGE.**

3. **K.A. THOMAS, KANIYACHIRAYIL HOUSE, KATTAPPANA P.O., VALLAKKADAVU IDUKKI DISTRICT.**

BY ADV. SRI.C.K.PAVITHRAN
SRI.K.BAIJU
SMT.ASHA P. KURIAKOSE

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 7874 OF 2001 IN

M.F.A. NO. 1113 OF 2001

CLOSED.

11.4.2007 **ID/- K. PADMANABHAN NAIR, JUDGE.**

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 1113 OF 2001

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Dated this the 11th day of April, 2007

J U D G M E N T

The Insurer is the appellant. First respondent filed an Original Petition, O.P(MV) No.390 of 1998, before the Motor Accidents Claims Tribunal, Thodupuzha, claiming compensation against respondents 2 and 3 and the appellant. It was alleged that the accident occurred due to the negligence of the driver of the vehicle. The Tribunal found that the driver was negligent and awarded a compensation of Rs.73,150/-. Challenging that award, the Insurer has filed this appeal.

2. Learned counsel for the appellant has strenuously argued before me that there is a positive finding by the Tribunal that though the driver was holding a valid licence, he was authorised to drive a transport vehicle and paper badge only with effect from 6.4.2000. In this case, the accident had occurred on 22.3.1998. It is true that the materials on record show that the driver was issued badge only with effect from 6.4.2000. But there

is absolutely no evidence on record to show that the vehicle involved in the accident was a transport vehicle or a goods vehicle. Material on record only shows that the vehicles involved in the case was Jeeps. The first respondent was travelling in a Jeep bearing Reg. No.KRV/7407. Another Jeep bearing Reg. No.KRT/2493 driven by the second respondent came and hit against the Jeep in which the first respondent was travelling. There is no evidence to show that the offending vehicle was transport vehicle or goods vehicle. It is true that Exhibit B1 policy was an act only policy. The contention raised was that there was violation of policy conditions. The Tribunal found that there is no material on record to show that there was violation of policy conditions. The Tribunal held that the Insurer is liable to pay the entire compensation awarded.

3. I do not find any irregularity or impropriety in the award passed by the Tribunal. So the appeal is only to be dismissed.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 1113 OF 2001

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J U D G M E N T

11TH APRIL, 2007